Seclusion and Restraint And Children

Welcome to the Colorado Developmental Disabilities Council’s feature newsletter focused on advocacy and systems change around the use of seclusion and restraint upon children in the early childhood and the K–12 educational systems. In 1999, landmark national legislation led to tighter controls on the use of restraints in psychiatric hospitals. Federal and State mental health authorities furthered the development and implementation of policy change and the active pursuit of a reduction and ultimate elimination of seclusion and restraint (Roadmap to Seclusion and Restraint Free Mental Health Services, 2005, DHHS). The same cannot be said of this country’s educational systems. The New Commission on Mental Health found that “restraint and seclusion pose significant risks, including ‘serious injury or death, re-traumatizing of people with a history of trauma or abuse, loss of dignity, and other psychological harm’”.

We, as a community, can and must do better for our children, who deserve and have a right to be safe at school.

This issue of our newsletter is divided into three sections and illustrates the progression from grassroots advocacy to advocacy at the systems level that creates change.

Little value comes out of the belief that people will respond progressively better by treating them progressively worse.

—Eric Harvey

continued on page 2
Whenever one person stands up and says, “Wait a minute, this is wrong”, it helps other people to do the same.

—The Young Turks

It is our hope that you will find all of the information and tools you need to join the push to ratify the Keeping All Students Safe Act (S.2036 and H.R. 1893) and to ask questions and lead advocacy efforts in your own communities and states focused on the occurrence, oversight, and protections against the use of seclusion and restraint.

To quote the Self-Advocates from Nevada: *You didn’t start the fire, but you can put it out for good.* We welcome your insight and feedback and would really like to hear what action you or your organization has taken to protect our children as a result of reading this newsletter by going to our “Contact Us” page on our website and sharing your story in the Message Box.

Learning from Those Whose Lives Have Been Directly Impacted by These Practices

RESTRAINT AND SECLUSION: HEAR OUR STORIES

Restrain and Seclusion: Hear Our Stories is a new film by Dan Habib, Filmmaker at the Institute on Disability at the University of New Hampshire. In the film, Brianna Hammon, Peyton Goddard, Jino Medina, and Helena Stephenson describe the restraint and seclusion they experienced while students in public schools, and the devastating physical and emotional injuries they suffered as a result. Carolyn Medina and Wil Beaudoin describe how the restraint and seclusion their children endured had an impact on them as parents.

**Brianna Hammon**

Brianna Hammon, 29, was first secluded and restrained at age 8, when she weighed just over 30 pounds. “I was 8 years old when they put me in a room built with a wooden chair bolted to the floor,” Brianna says in the film. “She locked us in there…I was so traumatized.” She was secluded again in middle school, and soon after she became politically active along with her mother,

In March 2012, the American Association of School Administrators issued a report asserting the use of seclusion and restraints protects students and school personnel. Specifically the report states “the use of seclusion and restraint has enabled many students with serious emotional or behavioral conditions to be educated not only within our public schools, but also in the least restrictive and safest environments possible”.

—Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult to Remedy: A Review of 10 Cases

(Disclaimer)
The views expressed by authors in Between the Lines, the quarterly newsletter of the Colorado Developmental Disabilities Council, are not necessarily those of the Council, its individual members or the staff. Letters to the Editor are encouraged, as are requests for correction of factual information. Please direct such to the newsletter editor at susan.fager@state.co.us.
Deidre Hammon. When she was 16, Brianna and Diedre successfully advocated for a Nevada law that limits restraint to emergency situations and prohibits seclusion entirely.

Brianna is now the Librarian for the Center for Self Determination; she was Treasurer for the Reno Chapter of People First for five years, and is now a member of the Scream Room Sub-committee.

Peyton Goddard

During two decades in special education classrooms, Peyton Goddard experienced aversive restraints, punitive seclusion and physical, mental and sexual abuse. Since she was non-verbal, she could not tell her parents of this abuse, but could express herself only through behaviors that were often explosive, aggressive and self-destructive. After finally learning to communicate through supported typing, Peyton requested a “real education” and became the first person using this technique to graduate valedictorian from a U.S. college (Cuyamaca College, 2002).

Goddard, now 37, along with her mother, Dianne Goddard, and writer, Carol Cujec, tells her story in the recently published memoir, I Am Intelligent. She has been invited to deliver more than 75 presentations at conferences and universities on the subject of “esteeming all people”. Learn more about Peyton Goddard at peytongoddard.com.

In 1999, the Nevada legislature passed a law that prohibited the use of seclusion rooms by school districts (NRS 388.5265); however the practice continued. On March 1, 2012, the Reno Chapter of PEOPLE First of Nevada formed a “People First Scream Room” sub-committee to make the school board of Washoe County aware of this law and also how seclusion rooms impact children with disabilities, their classmates, their families, and members of the community; they also wanted to help other families that are still facing this issue and to let the public know that this is wrong!

“Scream rooms” is a name given by children who get put in seclusion rooms and are prevented from leaving. Non-disabled children in schools say scream rooms, because they can hear the students with disabilities screaming to get out. Most often, it is children labeled with a disability and put in a segregated classroom who face the unlawful use of seclusion. But they are not the only ones harmed by the use and the presence of scream rooms in our schools. Sometimes these rooms are called “time out room”, “quiet area”, “quiet room”, “white room”, or “sensory room”, but if the child is forced to go there, and/or prevented from leaving the room, we call it a scream room.

The sub-committee reviewed national reports (see Resources on page 24) on the use of seclusion and restraints and found similar results in their county based on the personal experiences of their members (four members were subject to repeated seclusion in Washoe County schools—two before the change in the law and two after) and individuals interviewed for this report. Sub-committee members experienced scream rooms between the ages of six and 13. Common reactions to scream rooms include:

- Terror, fear, horror and anger
- Hopelessness and loss of trust
- Physical aggression
- Urinating and defecating on self because cannot get out of room

continued on page 4
• Removal from regular classes to more, or complete, segregation
• Loss of academic and social skills, and loss of connection to friends and family.

Scream Rooms have no lawful purpose. We want you to think about the prejudice that was created in the minds of many people about the dangerousness of children—little children—with disabilities when these elementary school scream rooms came into being. The architects who made the plans had to be told children with disabilities are so dangerous that they sometimes need to be locked in closets. They had to be asked something like “Please, put some closets in these classrooms for the dangerous little children with disabilities.” The school board committees and trustees who approved the plans had to be told the same prejudice. The builders who used the plans to build the schools had to be told the same. Teachers, administrators, parents, foster parents, and grandparents were all told the same. Visitors to the schools were all told the prejudice, and if not told, they could see it with their own eyes. School police who came to arrest little eight year old children with disabilities probably did not question their anger and their violent behavior, because the room was right there. It was solid, it was real. Children with disabilities must be dangerous. And the students outside those classes who could hear the screaming, they came to believe that those children are so dangerous, they had to be locked up. Would you be friends with someone you thought was dangerous?

Everyone came to believe it.

Everyone but us. We knew all the time.

Still, that is a lot of prejudice to get undone.

And since we still live in this community and because [we] care very much for the little children with disabilities, we think it would be right to undo that prejudiced thinking.

So that those of us who have been, and continue to be, injured by the old prejudiced beliefs can be healed, we recommend the WCSD Board of Trustees publicly apologize to all former victims for the prejudices and discrimination of the past, and promise a new start in its response to children with disabilities. You didn’t start the fire, but you can put it out for good.

Your freedom and mine cannot be separated.

—Nelson Mandela

Other Names Used For RESTRAINT
- Restrictive procedures
- Restriction of or limiting movement
- Holds/holding/therapeutic holding
- Positioning/postural support
- Physical support, intervention or escort
- Intrusive procedure
- Pinning
- Containment
- Hands on
- Take down

Other Names Used For SECLUSION
- Time out, time in, time away, time alone
- Isolation, calming, or safe room
- Isolation
- Confinement
- Exclusion
- Separation
- Quiet time
- Planned ignoring
- Break time

Your freedom and mine cannot be separated.

—Nelson Mandela
A FEDERAL COMMITTEE INVESTIGATES AND REPORTS ON THE DANGEROUS USE OF SECLUSION AND RESTRAINTS IN SCHOOLS

The Senate Health, Education, Labor and Pension Committee (the Committee) heard from a number of families whose children have been physically or emotionally harmed by the use of seclusion and restraints. In an effort to better understand the frequency and severity of the use of these practices, the Committee undertook an investigation to better understand the types of seclusion and restraint practices occurring in U.S. schools and the obstacles faced by families seeking to stop the use of these practices or seeking restitution for harm caused by them.

The Committee staff found that, under current law, a family whose child has been injured, experienced trauma, or, in the worst case, has died as a result of the use of seclusion or restraints practices in a school has little or no recourse through school procedures or the courts. In fact, the investigation found that only eighteen states currently require parents be notified about the use of seclusion or restraints upon their children. Staff also identified ten cases in different states where children had been significantly injured or had died due to the use of seclusion and restraints in their schools. That review found certain commonalities across cases and states including:

- Families were not often informed of the seclusion and restraints being used on their children; when parents were told or discovered their children had been subjected to these practices, it often explained changes in their child’s temperament, behavior, or learning;
- Families had difficulty obtaining information or documentation from schools about the frequency, intensity and duration of the practices;
- Current laws and regulations often prevent families from successfully seeking restitution even in cases of clear abuse. The exhaustion requirements of the Individuals with Disabilities Education Act (IDEA), requires a family to exhaust all of their due process options under the law before taking a case to court, which often forces parents to resort to removing a child from a school as the only means to stop the use of seclusion and/or restraints.
- Proving psychological harm, in a court setting, in the absence of physical damage, poses additional challenges;
- Parents have difficulty overcoming the presumption that teachers and schools acted appropriately when secluding and restraining children;
- Existing laws do not incentivize school districts to change policies and procedures.

The Committee also found that there is no evidence that physically restraining or putting children in unsupervised seclusion in the K–12 school system provides any educational or therapeutic benefit to a child. In fact, use of either seclusion or restraints in non-emergency situations poses significant physical and psychological danger to students. Yet the first round of data collected by the United States Department of Education in 2009–2010 demonstrated that these practices were used in U.S. schools at least 66,000 times in a single school year. Because 15% of school districts failed to report data, however, this figure likely underestimates use of seclusion and restraints.

Unlike the use of seclusion and restraints in juvenile justice facilities and mental health facilities, there is currently no federal law or regulation specifically addressing appropriate limitations on the use of these practices in the nation’s schools. This is true even though Positive Behavioral Interventions and Supports (PBIS), an evidence-based, data-driven framework used in close to 20% of U.S. schools, is proven to reduce disciplinary incidents and to promote a climate of greater productivity, safety, and learning. Inclusive schooling for children with behavioral challenges can be a positive, academically and socially enriching experience for those students, their peers, and staff.

The Committee also researched the inability of some families to both effectively address the use of seclusion and restraints and to positively change school practices. By passing legislation to permit the use of restraints only in emergency...
situations and to eliminate the use of seclusion, Congress and states can help schools to implement interventions that promote positive learning environments, promote better academic outcomes, and prevent behaviors that put children and personnel in danger. Lessons learned from the families involved with this investigation should speed the adoption of positive approaches to working with families and the implementation of positive preventative behavior practices in schools.

Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult to Remedy: A Review of 10 Cases. United States Senate, Health Education, Labor and Pensions Committee, Tom Harkins, Chair, Majority Committee Staff Report, Feb 12, 2014


**DATA SNAPSHOT ON SCHOOL DISCIPLINE**

This data was collected by the U.S. Depart of Education Office for Civil Rights (OCR) for its March 2014 Data Snapshot on School Discipline. The OCR received data from every public school in the nation and reflects the status of 49 million students. Students classified as “students with disabilities” are those who are receiving services through the Individuals with Disabilities Education Act or IDEA.

Of 49 million students:
- 88% are students without disabilities
- 12% are students with disabilities

Students Subjected to Physical Restraint:
- 25% students without disabilities
- 75% students with disabilities

Students Subjected to Seclusion:
- 42% students without disabilities
- 58% students with disabilities

Composition of Students by Race and Ethnicity and Percentages Subjected to Mechanical Restraint

<table>
<thead>
<tr>
<th>Race/Ethnicity</th>
<th>Without Disabilities</th>
<th>With Disabilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>55%</td>
<td>47%</td>
</tr>
<tr>
<td>2 or More Races</td>
<td>2%</td>
<td>2%</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>21%</td>
<td>12%</td>
</tr>
<tr>
<td>Black/African American</td>
<td>19%</td>
<td>36%</td>
</tr>
<tr>
<td>Native Hawaiian/Other PI</td>
<td>0.3%</td>
<td>0.1%</td>
</tr>
<tr>
<td>Asian</td>
<td>2%</td>
<td>1%</td>
</tr>
<tr>
<td>American Indian/Alaska Native</td>
<td>1%</td>
<td>2%</td>
</tr>
</tbody>
</table>

Source: [http://www.2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf](http://www.2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf)

Illustrations courtesy
Minnesota Department of Education
POSITIVE ALTERNATIVES TO SECLUSION AND RESTRAINT

The key to reducing the use of aversives, restraints, and seclusion is to ensure that individuals who exhibit challenging behaviors have access to comprehensive and individualized positive behavior support. Behavior that challenges us is a symptom of a problem, not the problem itself. It tells us to look closer and listen harder, because something is wrong. Behavior is a message about what is happening in someone’s life. By joining in the communication, rather than shutting it down, we can identify the problem and find positive solutions.

More than two decades of peer-reviewed studies have provided strong evidence of positive alternatives for addressing even the most serious behavior challenges, such as self-injury, aggression, and property damage.

The success of Positive Behavior Intervention and Supports (PBIS) has been documented across settings, including schools, family homes, and typical places in the community. Because PBIS is not intrusive or inappropriate for public places, PBIS supports and encourages children to participate more fully in normal everyday activities and community life. It is the “least restrictive intervention” designed for the “least restrictive setting.”

PBIS, which is called for under the Individuals with Disabilities Education Act (IDEA) and is based upon a completed Functional Behavioral Assessment, is an evidence-based technology and process for developing effective, individualized, non-aversive interventions for children whose behavior challenges us. PBIS draws information from psychology, medical research, and neuroscience to understand how learning and long-term behavior change occur.

The goal of PBIS is not merely to suppress or eliminate unwanted responses, but to understand and respond thoughtfully to their cause and/or purpose. The child can then be assisted to substitute more appropriate and effective behaviors, including better ways to make his or her feelings, needs, and choices known. The PBIS approach also involves evaluating a child’s physical environment and changing those things or events that are overwhelming or stressful (e.g., loud noises, crowded situations, unstructured time, inappropriate instructional strategies, lack of adaptations in curriculum). Last but not least, it involves a commitment to changing attitudes and behaviors on the part of adults with whom the child interacts.

PBIS is an orientation based on research, one that aims to build a culture of support by understanding the function of behavior; creating individualized and socially meaningful supports; creating person-centered environments; and using a collaborative team approach.

To accomplish this, PBIS focuses on:

- Understanding through Functional Behavioral Assessment and hypothesis-based interventions that are selectively determined based on an individual’s needs, characteristics, and preferences.
- Prevention and early intervention;
- Education and capacity building;
- Utilization of long-term, comprehensive approaches;
- Involvement and ownership of key stakeholders; and
- Commitment to outcomes that are meaningful for that individual.

Focusing solely on the reduction of problem behaviors through the use of positive or negative consequences, and/or simply reinforcing appropriate behaviors by itself is not PBIS.

PBIS involves teaching new skills that replace challenging behavior over time, assisting the individual to change his or her interactions (physical and social), and must be based on the conduct of a Functional Behavioral Assessment.

This article was funded and produced by: http://tash.org/advocacy-issues/coalitions-partnerships/aprais/positive-alternatives/
**EDUCATING YOUR CHILD’S SUPPORT TEAM**

Creating a student profile for your child, sharing clear, precise documentation about her/him can be important for school safety. Include the following information in the Profile:

- Student’s strengths, likes, dislikes, and preferred interests
- Talents and skills
- Things the child finds challenging, frightening or upsetting
- Triggers that escalate his or her behavior and safe, positive de-escalation methods
- Sensory regulation needs
- Communication strategies and needs, and how to support individual social skills
- How to interpret his/her behavior as communication (e.g., a personal “dictionary of what specific behaviors mean”)
- Medical needs or concerns and medical conditions that contraindicate the use of restraint or seclusion, such as asthma, obesity, certain gastrointestinal disorders, heart and pulmonary disorders, etc.
- Specific instructions on avoiding seclusion and restraint
- Emergency contact information
- A photo of your family member

When the profile is ready, sign and date it. Ask your child’s Individualized Education Plan (IEP) team to attach the report to the IEP. Circulate copies of the Report to the child’s principal, teachers, and all school staff who interact with him/her. Keep a list of who received it and when. If it must be sent by mail, have a signed postal receipt returned to you. Be sure to include those school staff who may not be familiar with your child’s IEP, including substitute teachers, school librarian, school bus driver, etc. Also consider writing and signing a “No Restraint Letter” (see page 10) and ensure that it is part of your child’s IEP.

From: http://tash.org

---

**USE OF POSITIVE BEHAVIOR SUPPORTS IN EARLY CHILDHOOD TO PREVENT SECLUSION, EXCLUSION, OR EXPULSION**

By Sarah Davidson, M.Ed.—Faculty, Director of Community Education (Sarah.davidonhoover@ucdenver.edu)

In May 2009, the US Government Accountability Office (GAO)* released findings regarding cases in which seclusion and restraint in young children were abused to the point that children were physically and psychologically injured. While seclusion and restraint of young children are generally prohibited in settings that serve these children, there can be ambiguity for some caregivers in some environments about what constitutes seclusion. Isolation of young children in early childhood settings, such as when a very young child is involuntarily confined alone in isolation of other children, can have particularly negative consequences.

Best practice suggests that seclusion or isolated exclusion from social interactions are not appropriate actions for young children. Yet in early childhood contexts such as child care, early learning centers and other programs for very young children, as children with disabilities, behavioral or emotional difficulties are included in these settings (as they should be), these children are at risk of invasive or restrictive practices because professional development might not be keeping pace with inclusion. According to the U.S. Department of Education’s Office of Civil Rights, children with disabilities make up 20% of all preschool expulsions. Children with disabilities are

*Citations for the referenced reports and CCBD guiding principles are available upon request.
also more likely to be disciplined in early care and education programs. About one in 10 are English language learners, and black children are expelled or suspended at disproportionately higher rates than other children.

Additionally, if we consider expulsion as the ultimate form of isolation from an early childhood environment, many young children are being expelled from pre-school programs and licensed family child care homes, thus being involuntarily isolated from their group setting. This is a difficult decision for early childhood caregivers; often the reason for a child being expelled from a pre-school setting is because of the perception that the child is a danger to him/herself or others, and the caregiver or program is at their "wit's end."

Let’s consider the exclusion and expulsion here as the ultimate restrictive practice when challenging behaviors occur with young children. While there may be extreme circumstances in which a child’s behavior does, indeed, pose a significant risk and needs more substantial supports than can be provided in a typical early learning or child care environment, often removal of a child from care serves no purpose other than to avoid preventing and addressing challenging situations related to behavior.

Positive supports and strategies exist to reduce the behaviors that might lead to reactive responses such as seclusion, exclusion, or expulsion—the problem is that there isn’t universal prioritization or access to incorporating these practices into early learning and child care environments. When reactive responses are used as a solution to behavioral challenges with very young children, these children are not learning positive alternatives. There needs to be more widespread acceptance and availability of preventative strategies that caregivers can learn and practice to prevent serious behavioral challenges from occurring.

There are general principles that need to be considered in preventing and responding to challenging situations with young children, and these principles should be reflected in policies and practices of all early childhood environments. The goal is to find ways to assess and address the root causes of children’s disruptive behavior (and, I would add, disruptive to whom, sometimes the “challenging” behavior is challenging to the adult but not disruptive to the child or other children). The Council for Children with Behavioral Disorders (2009) supports a set of guiding principles which, if fully implemented and used with integrity and fidelity, could significantly diminish difficult behavioral incidents. Additionally, the Technical Assistance Center on Social Emotional Intervention supports alternative best practices that don’t require invasive techniques or exclusion from programs or social interactions.

The following are principles and best practices to support young children in a preventative way, before serious challenges are present:

- Behavioral interventions for children must promote the right of all children to be treated with dignity.
- Positive and appropriate interventions, as well as mental health supports, should be provided routinely to all children who need them, and staff should be trained to employ these techniques, and have access to consultation to support them in these interventions.
- Behavioral interventions should emphasize prevention and creating positive behavioral supports.
- All staff should have mandatory training in the use of positive behavior supports for student behavior and in preventive techniques for addressing student behavior.
- All children whose pattern of behavior impedes their learning or the learning of others should receive appropriate assessment, including functional behavioral assessments followed by behavioral support plans which incorporate appropriate positive interventions, including social and emotional learning, and instruction in appropriate behavior and strategies to de-escalate their own behavior.

Preventative strategies and use of proactive positive behavioral supports can do wonders to reduce the likelihood of extremely difficult behavior and should be the first course of action in trying to reduce isolation and exclusion of children from care. However serious behavioral challenges can still occur in which case they can be addressed to ensure the child’s and others’ safety and de-escalate the behavior. Such strategies can include:

1. Using a calm, supportive tone of voice
2. Using verbal direction to help guide the child
3. Validating the child’s emotions
4. Non-invasive physical interventions such as removing objects that could be used for harm
5. Guiding other children away from close proximity to the child
6. Not placing demands on the child at the time of the escalated behavior

(Adapted from TACSEI Issue Brief: Preventing the Use of Restraint and Seclusion with Young Children: The Role of Effective, Positive Practices, 2011)

continued on page 10
In Washington DC, legislation has been introduced that would prohibit pre-school expulsion and address disciplinary incidents in very young children. In early childhood, children aren’t able to fully connect their behavior to the disciplinary action taken so the action doesn’t solve the root problem of the child’s behavior; they are often disciplined for behavior that is developmentally appropriate for their age, such as tantrums, biting and defiance. In Colorado and nationally, we need to better address the issues that lead to disruptions, exclusion and expulsion in early childhood programs through increased mental health supports; increased parent engagement in the practices of early care and education programs; and a stronger component of professional development and caregiver support that specifically addresses prevention of challenging behavior and positive social and emotional development.

**WRITING A “NO RESTRAINT” LETTER**

If you are concerned that your child’s school may be using or considering the use of aversive procedures upon her or him, write a “No Consent Letter” that clearly states that you do not give permission for these procedures to be used upon your child. The entire sample letter can be found here: [http://www.bridges4kids.org/IEP/NoRestraintLetter.html](http://www.bridges4kids.org/IEP/NoRestraintLetter.html)

Use this letter as a starting point and personalize it to best fit your and your child’s needs. Distribute the letter to all school personnel who interact with your child.

We are concerned that (insert child’s name) behavior challenges now are being or might be addressed in part through the use of physical management and restraint. I have not authorized and will not consent to any activity that involves physically or mechanically restraining my child while at school or going to and from school. I know that special education law requires the use of functional assessments of behavior and positive behavior support plans to address behavior challenges. If the school feels (insert child’s name) behavior is such that physical management or restraints are being considered or used, it is obvious to me that we need to follow the law, do the assessment and develop a positive behavior support plan.

—Excerpt from a NO RESTRAINT LETTER drafted by Calvin and Tricia Luker of the Respect ABILITY Law Center

**POSITIVE STRATEGIES FOR CHALLENGING BEHAVIORS**

**A Mother Makes an Important Discovery**

Twelve year old Jacob was to start middle school soon. For several weeks, Jacob’s mother, Denise, had noticed that he had been waking several times nightly with bad dreams. Since he was not getting enough rest, he had become contrary and moody during the day. His younger sister and the family dog seemed to receive the brunt of his bad feelings. Denise didn’t know what to do. After several unsuccessful attempts of punishing him to get Jacob’s behavior under control, Denise shared her frustrations with a friend. Talking about the situation gave her a chance to step back and look at the situation more objectively. She then realized that Jacob was misbehaving because he was scared about starting sixth grade in a new school. Through his behavior, Jacob was communicating feelings that were hard for him to verbalize.

In schools, classroom management has long been a challenge for teachers. How can they assure a productive, vibrant, learning environment for all the students in their class? What is the most positive way to deal with students who have disruptive behaviors? Is it possible that a different approach that is not punishment based would be more effective, similar to Jacob and Denise’s story above?

After Denise realized that Jacob was communicating information about his feelings through his behavior, she developed several specific strategies to proactively support him in his transition to middle school. She and Jacob scheduled a special time each day to do something fun together, and when he was relaxed and enjoying his time with his Mom, Jacob began expressing some of his hopes and his fears about the new school. Denise promised Jacob that she would be there for him to talk about his feelings, and they agreed upon a secret signal for Jacob to use to let her know when he was starting to feel anxious. Denise also

—Excerpt from a NO RESTRAINT LETTER drafted by Calvin and Tricia Luker of the Respect ABILITY Law Center
helped Jacob write a letter to share with his teachers at the new school highlighting his strengths and interests and also sharing the things that made him feel anxious. These specific strategies helped Jacob get off to a good start at the new middle school!

**Behavior is Communication**

What is seen as misbehaving may be the only way that a student can communicate his or her needs at a particular time. Approaching behavior as communication of unmet needs is not a new idea. In 1986, in a pioneering book, *Control Theory in the Classroom*, Dr. William Glasser stated that the reason students have behavior problems in school is because school is not satisfying their basic needs to belong, to love and be loved, to gain power, to be free, and to have fun. According to this theory, students’ behavior challenges are often an expression of these unmet needs. Glasser goes on to say, “We are far too concerned with discipline, with how to ‘make’ students follow rules, and not enough concerned with providing the satisfying education that would make our over-concern with discipline unnecessary.” (Glasser, 1986).


Both of these 20th century education leaders contributed to schools of thought that led to a shift in traditional beliefs about why children misbehave and how we can address behavioral challenges.

**PBIS—A 21st Century Approach for Addressing Behavior in a Positive Way**

A new framework has emerged which is helpful for educators and families to prevent undesirable behaviors from happening and to address behaviors in an effective way when they do happen. Building on the theories of Glasser, Kohn, George Sugai, and others, a proactive approach called *Positive Behavior Interventions and Supports*, or PBIS, is being adopted in schools across Colorado and the country.

Schools that embrace PBIS create environments in the whole school that are welcoming and accepting of all students. In these schools, universal strategies are applied that help to assure that the basic needs of all students are attended to so that everyone engages more actively in learning, wants to cooperate, and feels more emotionally secure. In this positive environment, behavior challenges are much less likely to occur.

However, some students at times need more than the universal behavioral supports provided for all students. Students who experience personal, family, or learning challenges (temporarily or long-term) and/or students identified as having communication, emotional, or behavioral disabilities may need more deliberate strategies and supports in place to assure their success in school.

For these situations, the PBIS framework includes two additional, more intensive levels of supports for students who need them. (See diagram from the Colorado Department of Education (CDE) which shows the three levels of supports.) Notice that the green, or “universal supports,” layer deliberately incorporates the entire triangle, showing that EVERY student is included in the universal supports and that this model is not intended to indicate separate placements for students who may need more intensive supports.

Recently, another new framework for student support has evolved which aligns PBIS for behavior supports with Response to Intervention (RTI) for academic supports. This new alignment is intended to create a more complete picture for addressing students’ learning and behavioral needs together to assure positive school results for all students. The aligned PBIS/RTI framework, called the Multi-Tiered System of Supports (MTSS) has been formally adopted by CDE which is providing technical assistance to school districts across the state to assist in implementation. For more information, see the graphical illustration of the MTSS framework (below), and check out CDE’s Fact Sheet: *Special Education within a Multi-Tiered System of Supports.*

### Designing School-Wide Systems for Student Success

#### What More Might Students with Identified Disabilities Need?

For students with Individualized Education Plans (IEPs), the Individuals with Disabilities Education Act (IDEA) provides safeguards and processes for assuring that positive behavior approaches are used with a student consistently across all
of the environments where behavior can be an issue. IDEA dictates that a Functional Behavioral Assessment (FBA) must be done as part of the IEP process when behavioral challenges are either anticipated or are already happening. The FBA is a systematic set of strategies that is used to determine the underlying function or purpose of a behavior—what needs of the student is causing this behavior to happen? Once the function or causes of the behavior are identified through the FBA, then the IEP team (including the parent) develops a Positive Behavior Intervention Plan (BIP). The BIP is then written into the IEP, put into action, and monitored to be sure it is working. For more information on Functional Behavioral Assessment check out this video from the Iris Center. And, for more information on Positive Behavior Support Plans, check out this article, Behavior Assessment, Plans, and Positive Supports, a resource available on the brand new Center for Parent Information and Resources website!

Final Thoughts

Being proactive by focusing on the causes of the challenging behavior and developing a positive plan to meet the students’ needs works much better than a reactive approach. Reacting is characterized as a one time stop-gap approach implemented after the problem. It is the process of interpreting behaviors as well as a student’s other learning challenges that is important for parents and teachers to understand.

A no-fault approach is an essential consideration. Teams who confront challenges by using problem-solving techniques are much more effective in assisting a student to be successful than teams who focus on trying to find someone to blame in the situation. So, even though a natural impulse of parents and educators is to try to control or manage a student when challenging behaviors occur, it is important to stop, take a step back, look at the environment, involve the team, and seek a different approach!

References


Photo of the boy on the school bus included under a Creative Commons license by WoodleyWonderworks.

PEAK Parent Center www.peakparent.org—Spring Special Edition 2014 SPEAKout Newsletter

Courtesy Massachusetts Department of Mental Health
Developing and Influencing National Policy

DEVELOPING NATIONAL POLICY—STEP 1: RECOMMENDATIONS FROM THE U.S. SENATE’S HEALTH, EDUCATION, LABOR, AND PENSIONS COMMITTEE

The Committee offers seven recommendations to protect the nation’s children from injury and death, reduce and eliminate the use of ineffective practices, and replace those practices with preventative strategies and positive interventions:

• In order to better understand the frequency, duration and intensity of the use of restraints and seclusion in schools, a nationwide requirement to collect incident events should be in place and reported at the local, state and federal levels annually. This dataset should be able to be disaggregated to the district and school level in order to provide school leaders with the ability to analyze the data and use it to track the impact of training, policies and interventions to reduce the incidents of seclusion and restraints. The dataset should also be able to link to student academic outcome data at the district and school levels in order to be able to determine the impact of incidents of seclusion and restraints on academic achievement.

• Through the use of federal title II funds, Individuals with Disabilities Education Act (IDEA) funds, and local and state funds, programs to implement systems of positive behavioral interventions and supports should be implemented school and district-wide. All teachers and school personnel should be trained on the use of techniques that do not rely on seclusion or restraints to reduce challenging behaviors in emergency situations. Finally, all schools should have a team of personnel trained to be able to respond to emergency situations. The systemic, school-and district-wide implementation of positive behavioral supports and interventions should be required in each school setting.

• The use of restraints must be limited to emergency situations only; when there is a threat of serious harm to the student or others and school personnel who are trained in the use of such restraints should be the only school personnel to implement allowable restraints in emergency situations.

• Unsupervised and unmonitored seclusion should be discontinued and all seclusion facilities should be removed from schools.

• All schools must inform a child’s parents when restraints or seclusion are used with their children. Notification must take place within 24 hours of the use of the restraint or seclusion, and include information about the type of seclusion and/or restraint that took place, the circumstances that lead to the use of seclusion and/or restraint, and the duration of their use.

• Because the use of seclusion should be discontinued and because the use of restraints should only occur during emergencies, and because both have been shown to have no educational benefit, prohibit the inclusion of seclusion and restraints as an educational or therapeutic component of a student’s Individualized Education Plan (IEP).

• Because of the lack of ability of families to have an impact on the use of seclusion and restraints practices with their own children, sometimes based on provisions of special education law, the IDEA should be amended to allow families to file civil actions in court before exhausting their IDEA remedies.

United States Senate
HEALTH, EDUCATION, LABOR, AND PENSIONS COMMITTEE
Tom Harkin, Chairman

Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult to Remedy: A Review of Ten Cases

Restraint and seclusion pose significant risks, including “serious injury or death, re-traumatizing of people with a history of trauma or abuse, loss of dignity, and other psychological harm”.

—New Freedom Commission on Mental Health
The Department, in collaboration with the Substance Abuse and Mental Health Services Administration, has identified 15 principles that they believe states, local school districts, preschool, elementary, and secondary schools, parents, and other stakeholders should consider as the framework for the development and implementation of policies and procedures on the use of restraint and seclusion. These principles stress that every effort should be made to prevent the need for the use of restraint and seclusion and that any behavioral intervention must be consistent with the child’s rights to be treated with dignity and to be free from abuse. These principles make clear that restraint or seclusion should never be used except in situations where a child’s behavior poses imminent danger of serious physical harm to self or others, and restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff. The goal in presenting these principles is to help ensure that all schools and learning environments are safe for all children and adults. To accomplish this, schools must make every effort to structure safe environments and provide a behavioral framework, such as the use of positive behavioral interventions and supports (PBIS), that apply to all children, all staff, and all places in the school so that restraint and seclusion techniques are unnecessary.

1. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.

2. Schools should never use mechanical restraints to restrict a child’s freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).

3. Physical restraint or seclusion should not be used except in situations where the child’s behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective; they should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated.

4. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.

5. Any behavioral intervention must be consistent with the child’s rights to be treated with dignity and to be free from abuse.

6. Restraint or seclusion should never be used as punishment or discipline (e.g., placing in seclusion for out-of-seat behavior), as a means of coercion or retaliation, or as a convenience.

7. Restraint or seclusion should never be used in a manner that restricts a child’s breathing or harms the child.

8. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual should trigger a review, and, if appropriate, revision of strategies currently in place to address dangerous behavior; if positive behavioral strategies are not in place, staff should consider developing them.
9. Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior. (“Dangerous behavior” refers to behavior that poses imminent danger of serious physical harm to self or others).

10. Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.

11. Every instance in which restraint or seclusion is used should be carefully, continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers, and other personnel.

12. Parents should be informed of the policies on restraint and seclusion at their child’s school or other educational setting, as well as applicable federal, state, or local laws.

13. Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.

14. Policies regarding the use of restraint or seclusion should be reviewed regularly and updated as appropriate.

15. Policies regarding the use of restraint and seclusion should provide that each incident involving the use of restraint or seclusion should be documented in writing and provide for the collection of specific data that would enable teachers, staff, and other personnel to understand and implement the preceding principles.


This report is in the public domain. Authorization to reproduce it in whole or in part is granted. While permission to reprint this publication is not necessary, the citation should be:


MORE STORIES OF SECLUSION AND RESTRAINT

Jino Medina

Jino Medina was 10 years old in 2010, when he was first subjected to restraint and seclusion at his school. He was sometimes restrained two or three times a day, at times while in a seclusion room and with the use of a restraint harness. Jino suffered a brain injury during restraint at age 11, on October 27, 2011. Now 12, Jino is in a new school but is currently only attending one class because he continues to suffer from vision loss, absence seizures and other neurological injuries he suffered during restraint. A report from an independent education evaluation recommended extensive therapy and provisions to make up for lost education and trauma related needs. Jino and his mother, Carolyn, are vocal advocates for California efforts to restrict restraint and seclusion.

“I have been in the “quiet” room. It is a cement walled (grey at that), no windows, secluded from the class, with a fire door and a lock. The children thrash about when they are over exposed. Hurting themselves. They are left in there until they break down emotionally. I remember reading about places like this in our history books. It is how they treat prisoners of war.”

—Tracy, Parent
I really love the fact that the 2012 Senate version of The Keeping All Students Safe Act was numbered S. 2020. (Federal Legislation has been introduced, H.R. 927). I often find myself making sense of the world through analogy and could not help doing so here.

In one sense, the term “20/20” is typically understood to mean “perfect vision.” While this bill was by no means perfect, it did serve to raise the standard of protection for school students higher than any legislation introduced or passed to date, and, if enacted, this bill would have promoted effective intervention and prevention practices that would have obviated the need for restraints and seclusion in the first place. In so doing, this bill would have protected students from physical and mental abuse, aversive behavioral interventions, and any restraints imposed for purposes of coercion, discipline or convenience, or as a substitute for appropriate educational or positive behavioral interventions and supports. This bill would also have worked to ensure the safety both of students and school personnel. In other words, S. 2020 articulated both a solid vision of the need to protect all students (and staff) and the means by which to do so.

In fact, of course, there is no such thing as perfect vision; rather, the term “20/20” reflects visual acuity and describes the “sharpness of vision” by measuring the ratio between a subject’s visual acuity and a defined standard. Passage of a federal bill simply creates a standard acuity to which states must measure up. States themselves can define precisely how they will reach this acuity and the ways in which they will assess compliance and report progress. “How” remains totally within State control.

S. 2020 contained many provisions that provided a specific minimum floor of protection that does not yet exist in many states, while raising the bar in others. For example, under this bill, restraint would only have been imposed on a student in cases of imminent danger of serious bodily injury, a well-defined legal term. S.2020 totally prohibited seclusion in schools—no longer would children be locked in rooms, closets, boxes, or other places from which they cannot freely exit. S. 2020 prohibited the use of restraint as a planned intervention in students’ education plans, including behavior plans and Individualized Education Programs (IEPs). Planning would be reserved for its intended purposes, namely, to encourage and teach positive behavior and to prevent situations in which students lose control and pose harm to themselves or others.

The quest to define a standard by which to measure visual acuity dates back to the 1800s. While the quest to define a standard for ensuring safety from the harms imposed by seclusion and restraint does not date back nearly as far, the call for protection does go back more than a decade. In 1999, the first GAO report was issued on this subject, and in the same year The National Association of State Mental Health Program Directors (NASMHPD) called for the prevention and elimination of these techniques in mental health facilities. In the mental health field it became obvious that whether or not such practices were being utilized within an individual facility was more a matter of “culture... than clinical necessity.”

1
Changing culture requires more than words and good intentions; it requires leadership and a willingness to learn from one’s experiences and to act accordingly.

The following year (2000), the Children’s Health Act was passed. This important legislation was the first federal statute to assure that public or private general hospitals, nursing facilities, intermediate care facilities, and other health care facilities receiving support in any form from any program supported in whole or in part with funds appropriated to any federal department or agency shall protect and promote the rights of each resident of the facility, including the right to be free from physical or mental abuse, corporal punishment, and any restraints or involuntary seclusion imposed upon them for purposes of discipline or convenience. The Act further stated that restraints and seclusion may only be imposed upon residents to ensure the physical safety of the resident or a staff member, and only under certain conditions and with close medical supervision.

The second sense of the term “20/20” is illustrated by the oft-quoted saying, “hindsight is 20/20.” That saying certainly applies here. Had the words “educational facility” been included in this federal statute back then, students may not have died, been injured, or been traumatized through the imposition of seclusion and restraint to the degree that they have over the past 12 years. To all those who have suffered as a consequence of this omission, we can now only extend our deepest sympathy. Unfortunately, while the use of restraint and seclusion in many other facilities that serve children has declined over these past years, their use in schools has remained widespread. In fact, new data from the U.S. Department of Education shows that nearly 40,000 students were physically restrained during the 2009–2010 school year, with about 70% of those being students with disabilities. Our nation’s children deserve better and, quite frankly, we know better.

In looking towards a brighter future we must take action with the benefit of both historical hindsight and conventional wisdom. Much has been learned from the experiences of the mental health field in reducing and preventing the use of restraint and seclusion. Evidence of the effectiveness of positive behavior supports in the school setting abounds. The national policy arena echoes with a unified call for respectful and healthy school culture. We simply can no longer afford to get mired down in continued debate over outdated techniques and unfounded assertions. The vision is clear—the time to act is now. For more information please visit the Council of Parent Attorneys and Advocates’ website.

About the Author:

Denise Stile Marshall, M.S., COPAA, has 30 years experience in the field of disabilities in a variety of support, management, and advocacy capacities. She has worked for TASH, the Kennedy Krieger Institute Community Services UCEDD in Maryland and currently is the Executive Director of the Council of Parent Attorneys and Advocates. Denise’s introduction into the power of advocacy was in her role as a positive behavior support specialist and master level crisis prevention specialist. Denise knows firsthand the challenges some exhibited behaviors present; the difference it makes to train school personnel to design and implement positive behavior supports for students whose behavior endangers themselves and others; and the transforming effect of using only evidence-based, positive supports and interventions.

Matthew Goodman, age 14, died in February of 2002 after 16 months of physical and chemical restraints.

The Keeping All Students Safe Act, H.R. 927 (KASSA), was introduced into the House on February 12, 2015 and referred to the House Committee on Education and the Workforce on the same day; it was referred to the Subcommittee on Early Childhood, Elementary and Secondary Education Committee on April 29, 2015.

<table>
<thead>
<tr>
<th>Recommendations from Self Advocates, Advocates, a Senate Committee and the U.S. Department of Education</th>
<th>How Recommendations were Included in KASSA, HR927</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unsupervised and unmonitored seclusion should be discontinued and all seclusion facilities should be removed from schools.</td>
<td>…Physical restraint or seclusion is imposed by school personnel who—continuously monitor the student face-to-face; or are in continuous direct visual contact with the student. (Sec. 5. Minimum Standards)</td>
</tr>
<tr>
<td>Restraint or seclusion should never be used as punishment or discipline, as a means of retaliation, or as a convenience.</td>
<td>The purposes of this Act are to—protect students from—any physical restraint or seclusion imposed solely for purposes of discipline or convenience; (Sec. 3. Purposes)</td>
</tr>
<tr>
<td>Limit the use of restraints to emergency situations only, when there is a threat of serious harm to student or others; only school personnel trained in the use of such restraints should be allowed to implement them.</td>
<td>Ensure that physical restraint and seclusion are imposed in school only when a student’s behavior poses an imminent danger of physical injury to the student, school personnel, or others. (Sec.3. Purposes)</td>
</tr>
<tr>
<td>Any behavioral intervention must be consistent with the child’s rights to be treated with dignity and to be free from abuse.</td>
<td>Behavioral interventions for children must promote the right of all children to be treated with dignity. All children have the right to be free from physical or mental abuse, aversive behavioral interventions that compromise health and safety, and any physical restraint or seclusion imposed solely for purposes of discipline or convenience. (Finding #2)</td>
</tr>
<tr>
<td>Parents should be notified as soon as possible/within 24 hours following each instance in which seclusion or restraint is used with their child.</td>
<td>Schools shall establish procedures to be followed after each incident involving the imposition of physical restraint or seclusion upon a student, including—procedures to provide the parent with respect to each such incident—an immediate verbal or electronic communication on the same day as the incident; and written notification within 24 hours of the incident; and any other procedures the Secretary of the Department of Education determines appropriate. (Sec. 5. Minimum Standards)</td>
</tr>
<tr>
<td>Prohibit the inclusion of seclusion and restraints as an educational or therapeutic component of a student’s IEP.</td>
<td>The use of physical restraint or seclusion as a planned intervention shall not be written into a student’s education plan, individual safety plan, behavioral plan, or individualized education program (Sec. 5. Minimum Standards)</td>
</tr>
<tr>
<td>Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives, such as positive behavioral interventions and supports (PBIS).</td>
<td>Physical restraint or seclusion is imposed by—school personnel trained and certified by a State-approved crisis intervention training program. (Sec. 5. Minimum Standards)</td>
</tr>
<tr>
<td>Nationwide requirement to collect incident events which are reported at the local, state, and federal levels annually; data should be able to be disaggregated to the district and school level; the data should link academic outcome at the district and school levels to determine impact of seclusion and restraint on academic achievement.</td>
<td>…each State educational agency shall prepare and submit to the Secretary, and make available to the public, a report that includes…the total number of incidents in the preceding full-academic year in which physical restraint was imposed upon a student; the total number of incidents in the preceding full-academic year in which seclusion was imposed upon a student…This information shall be disaggregated by the total number of incidents in which physical restraint or seclusion was imposed upon a student that resulted in injury or in death and in which the school personnel imposing the physical restraint or seclusion were not trained and certified, and the demographic characteristics of all students upon whom physical restraint or seclusion was imposed. (Sec. 6. State Plan and Report Requirements and Enforcement)</td>
</tr>
</tbody>
</table>
The practice of using seclusion and/or restraint to control a person’s behavior or to ease staff work load has a long and painful history. In 1998, after the death of Casey Collier, a young man with developmental disabilities whose resistance to a physical restraint attempt by four staff members in a residential treatment center caused his death, I was approached by the Arc of Denver (now Advocacy Denver), the Legal Center, and a number of other advocacy organizations to address this issue by introducing a bill in the Colorado State Legislature that would prevent or certainly curtail the use of such restraint practices. As a State Representative and a special education teacher, I immediately realized the impact such legislation would have on banning the use of such tactics as seclusion or restraint on another human being.

Thus began a two year process of discussion, outreach, meetings and word-smithing that culminated in the successful passage of House Bill 99-1090: “Concerning the Protection of Persons From Restraint.” HB-99-1090 was, by far, the most difficult bill to write in my entire 16 year career in the state legislature. First, we needed to define restraint, and decided to separate this definition into three components: physical, mechanical and chemical. (physical is a person forcibly holding another; mechanical is, for example, tying someone in a chair; chemical is medication for the purpose of withholding movement).

Then, because the rules that would be in state statute would apply to not only every state department, every county as an arm of the state, but also every private facility that receives state funding, including foster parents, day care centers, hospitals, nursing homes, schools and detention centers, it was necessary to include all these facilities and counties in the meetings. Each facility, business, school district, hospital, etc. had its own rules, regulations and practices, its own perceived needs for the practices, its own distinct populations and its own trainings for staff. We even heard concerns expressed from private independent dentist and doctor offices. From the beginning, it was agreed that law enforcement was exempt from the provisions of the bill.

In our first coalition meetings, it was clear that this effort was too involved and too complicated to make the deadlines of introduction in the 1998 legislative session. Members continued conversations, debates, outreach to others and lengthy meetings through that summer and fall so that, by January of 1999, we were ready to present a draft proposal to the legislature. Amendments were still to come, however, as legislators were beginning to hear from their constituents in favor of, or in opposition to, the provisions of the bill. One large group in opposition was the Colorado Hospital Association, who explained the need to have arm restraints for individuals who might unknowingly pull out intravenous lines, day care centers who read the language in the bill as prohibiting their ability to hold a child after a tantrum and doctors who felt they could not hold a child when giving an inoculation.

The fact that all these concerns were successfully addressed, resulting in the state law we have today, is a tribute to the many departments, agencies and individuals whose persistence and determination made it happen. A true citizen driven effort!

About the Author:

Moe Keller is Vice President of Public Policy and Strategic Initiatives for Mental Health America of Colorado. Before her work with MHAC, Moe served for eight years in the Colorado House of Representatives and eight years in the Colorado Senate, where she concentrated on legislation and policy for individuals who have mental health conditions and for individuals with developmental disabilities. Moe successfully sponsored mental health parity bills, legislation restricting use of seclusion and restraint and created the Children’s Mental Health Treatment Act in state law. Prior to her work in the legislature, Moe was a special education teacher for deaf and hearing impaired children for 25 years. Moe has been married to Stephen Keller for 42 years and has two adult children.
The Colorado Developmental Disabilities Council (Council) decided to include a goal focused on the human rights of persons with disabilities in relation to the use of seclusion and restraint upon their persons; this newsletter is dedicated to Goal 3 of our State Plan. With this issue, we hope that we can:

- Bring awareness to the prevalence of seclusion and restraint in educational settings;
- Provide family members with information and tools to prevent the inclusion of seclusion and restraint in Individualized Education Plans and educational settings;
- Explore alternatives to seclusion and restraint;
- Encourage Council members and others to get involved in making sure local legislators are aware that seclusion and restraint still exists in the public schools in Colorado, and in other states;
- Work together to get federal legislation passed to prohibit seclusion, restraint and abuse in educational settings.

Unfortunately, we live in a society that continues to devalue people with developmental and intellectual disabilities. Although the state of Colorado has very strong legislation prohibiting the use of seclusion and restraint in most settings, we have found the practice to be quite pervasive in our own schools and indeed a nationwide problem.

In 1999, Colorado Representative Moe Keller introduced HB99-100 “Concerning the Protection of Persons from Restraint” after a student at Cleo Wallace Center, Casey Collier, died in a prone restraint involving 4 staff at the alternative education center. The Arcs, Colorado Developmental Disabilities Council, Disability Law Colorado (formerly The Legal Center for People with Disabilities and Older People) all strongly supported the legislation. Opposition came from several residential and day treatment centers for both children and adults. The Colorado Association of Family and Children’s Agencies (CAFCA), the Colorado Hospital Association, the Colorado Health Care Association (representing Skilled Nursing Facilities), Goodwill Industries and law enforcement were all in opposition; by the time the legislation passed, a few of those entities had shifted to a neutral stance. The final piece of legislation was comprehensive in scope and nature and as written, provided a very strong framework for restricting the use of physical, mechanical and chemical restraint in most settings unless there is an emergency and with specified precautions, including the length of time such a technique can be used.

As many of us have learned by now, laws are simply words written on a piece of paper. We must remain vigilant in our efforts to ensure that the legislation is being followed. In 2010, HB10-1070 “Concerning Safety in Day Treatment Centers” was introduced by Representative Casso, at the request of Laradon Hall, an alternative school setting for children with emotional and developmental disabilities. Not surprisingly, the Arcs, the Council, and Disability Law Colorado (DLC) were all in strong opposition and those entities opposed to HB99-1000 spoke out about the “need” for the use of seclusion and restraint in their facilities. Although the bill was crafted around Laradon Hall in particular, both Goodwill Industries (an adult day program provider) and CAFCA, representing a number
of child and adolescent facilities were strong supporters in hopes that their programs could also get a “carve out” from prohibitions against the use of seclusion and restraint. Luckily, this legislation was defeated but not without a strong collaborative coalition of advocates and family members speaking out in an organized manner.

In 2011, SB11-049 “Banning the Use of Prone Restraints” was introduced by Senator Newell. Ironically, research into state statutes revealed that prone restraints had been banned by Executive Order during the last few days of Karen Bye’s tenure as the Director of Human Services. Again, the importance of follow through was highlighted as no one had bothered to look at implementation of the ban. A task force consisting of family members of persons killed in prone restraint, providers, professionals in the mental health and developmental disability realm and advocates all came together with Dan Casey, from the Department of Human Services, to craft a comprehensive implementation plan, including training for direct care staff to phase out prone restraint and systematically eradicate prone restraint in facilities in Colorado.

Colorado’s Protection and Advocacy Organization, Disability Law Colorado, received a grant from the Council to track the use of seclusion and restraint in the public school system; although reporting was on a voluntary basis, over 2/3 of the school districts in Colorado voluntarily complied. In addition, DLC has conducted over 75 investigations based on complaints received. Challenges to understanding the full scope of the problem in Colorado have to do with a lack of uniform mandatory reporting and tracking mechanisms within the schools. It has also become abundantly clear that professional accredited training on mandatory reporting requirements and on alternatives to seclusion and restraint, such as Positive Behavior Interventions and Supports (PBIS), for schools and other professionals working with children with behavioral challenges is crucial. Training providing family members with the tools to ensure their children are safe from these “procedures” is just as critical. Training should include, at a minimum, the state Department of Education’s Seclusion and Restraint Rules, the euphemisms that could be used in Individualized Education Plans (IEPs) allowing the use of seclusion rooms and restraints, alternatives to seclusion and restraint including PBIS, and the development of a “No Consent Letter”, which prohibits the school from using seclusion or restraint on their child. Many people also do not understand the strong correlation between the use of some medications and a higher probability of injury or loss of breathing or irregular heartbeat in children subjected to restraint.

Most importantly, we must work in collaboration with coalitions such as “Stop Hurting Kids”, TASH, The Council for Children with Behavioral Disorders to ensure that Federal Legislation is passed that prohibits the use of seclusion and restraint in our schools. The “Keeping All Students Safe Act” has been introduced in Congress for the past several years and has never been successfully enacted.

As advocates, family members, and people with disabilities, we must work together to ensure that people with developmental disabilities will be free from abuse, neglect, exploitation, seclusion and restraint related to differential treatment because of disability in any setting.

People with developmental disabilities will be free from abuse, neglect, exploitation, seclusion and restraint related to differential treatment because of disability in any settings.

—Goal 3, CO DD Council Current Five Year Plan

MORE STORIES OF SECLUSION AND RESTRAINT

Wil Beaudoin

Wil Beaudoin of Cranston, R.I., is the father of Andre Beaudoin, now 22. Andre is non-verbal, and has been diagnosed with Pervasive Developmental Delay—NOS, along with a severe anxiety disorder and low muscle tone. Andre’s family kept him home for as long as they were able, trying to address Andre’s occasional aggressive outbursts and self-injurious incidents. He attended the Bradley School in East Providence for approximately six years, and over that time Andre was restrained in only a few emergency situations. At age 15, the state of Rhode Island placed Andre in another group home and affiliated school, where he endured dozens of restraints, including prone restraints, over a three-month period. Once the family learned of the frequency of the restraints, and the resulting injuries to Andre, they removed him from this setting. Andre now lives in a community-based group home in Rhode Island. The home has an open door policy for parents. He has rarely been restrained in recent years.

Wil and his wife, Maren McBride-Beaudoin (a special education teacher), continue to advocate to reduce restraint and seclusion. Wil is also on a subcommittee of the Rhode Island Developmental Disability Council.
Since 2006, Disability Law Colorado, as the state Protection and Advocacy Organization, has conducted over 75 individual investigations into incidents of abuse and neglect related to restraint and seclusion in schools. Two examples from those investigations are as follows:

1. Disability Law Colorado investigated an issue regarding the use of secure wrap around desks. Students were being confined in desks with bars that locked behind their chairs preventing them from moving. Teachers and para-professionals were using the threat of these desks as a means to induce students to behave. Our investigation resulted in the district eliminating the practice, and we conducted two full day trainings on the Individuals with Disabilities Education Act (IDEA) and the Colorado Department of Education’s Restraint Rules. The training was paid for by the district, and paraprofessionals were included in the training.

2. Disability Law Colorado investigated an incident where a student was duct taped to his wheelchair. This occurred when a teacher was summoned to the principal’s office, and rather than taking the student with her, so as not to leave him alone unattended, she left him alone in the classroom taped to his wheelchair. The taping was not discovered until he arrived home on the bus. Disability Law Colorado investigated, issued a plan of correction that included staff training; the Boards of Cooperative Educational Services (BOCES) paid Disability Law Colorado to conduct BOCES wide training on the Restraint Rules.

Although we continue to conduct individual investigations, more recently we have been working on systemic projects around restraint and seclusion as well. Two years ago, Disability Law Colorado received a grant from the Colorado Developmental Disabilities Council (the Council) for a project created to get a true picture of the use of restraint and seclusion in Colorado schools. We requested data from all public school districts in Colorado and received an overwhelming response. Over two-thirds of the districts voluntarily provided us with their restraint and seclusion data for the 2011–2012 school year. After gathering and analyzing the data, we identified common training needs among districts. We shared this information with the Council and presented it at the Colorado Department of Education (CDE) Special Education Directors’ Meeting October of 2013.

The Council has awarded Disability Law Colorado a grant this year to continue our work. We are collaborating with CDE to gather data again, and to provide several trainings to school districts around CDE’s Restraint Rules. The data collection would be much like the previous effort with the addition of facility schools. The trainings would focus on the training needs identified during our first data collection. We would also create templates for both individual restraint incidences and for the annual review of restraint required by The Restraint Rules. These templates would be available to all school districts to use or to modify as their own. We believe creating uniformity and training districts on the requirements of The Restraint Rules will eventually lower the number of restraints used in Colorado schools.

The final component of our new project would be to create and present a training for parents and the community about The Restraint Rules. This training would provide information and an opportunity for more effective and informed advocacy on behalf of children. Furthermore, we are very grateful for the Council’s support and CDE’s collaboration. We hope to continue working with them in the future.

Below is an example of training that had a significant impact because it was in collaboration with the school district’s attorney. The attorney made attendance mandatory for the involved staff and administrators, including the special education director.
It focused on the rules around the use of seclusion. Specifically, staff was unaware of the definition of seclusion; therefore, not following the restraint rules when secluding students. Staff had many questions about different scenarios where they would use a sensory break room to calm a student. Many of the questions indicated that staff would place students in the room alone with the door shut in order to let a student calm down from behaviors that were not emergency situations. Staff did not know that this was a form of restraint and that all procedures (including documentation and notification) under the restraint rules must be implemented immediately. Since staff was not aware that this was a form of restraint, they were using it in non-emergency situations, in violation of the restraint rules’ “emergency only” language.

The training was extremely eye opening for staff and administrators and will prevent the undocumented use of seclusion, while using seclusion only in response to emergences.

Get Involved! Take Action!

We hope that the information included in this newsletter will provide a firm foundation for your advocacy efforts around seclusion and restraint. You have read the stories and recommendations of those whose lives have been impacted by seclusion and restraint. Alternatives to those aversive practices exist in the Individuals with Disabilities Education Act. The development of national policy from citizen advocacy to proposed legislation has also been illustrated.

As advocates, family members, and people with disabilities, we must work together to ensure that people with disabilities are free from abuse, neglect, exploitation, seclusion and restraint related to differential treatment because of disability in any setting.

Most importantly, we must work in collaboration with coalitions such as “Stop Hurting Kids”, TASH, and the Council for Children with Behavioral Disorders, to ensure that federal legislation prohibiting the use of seclusion and restraint in our nation’s schools is passed.

On February 12, 2015, Representative Donald Beyer (D-VA) introduced the Keeping All Students Safe Act (HR927), a critical piece of legislation that would ensure a standard of protection against abusive practices in schools. We need your help in moving this bill forward. Please act now and encourage your Representative to co-sponsor this legislation that could impact the lives of this country’s children.

On behalf of this nation’s children who are experiencing seclusion and restraint the Colorado DD Council thanks you for your advocacy work. We would like to hear your advocacy stories—share them with us by using the Message Box on the “Contact Us” page of our website.
Seclusion and Restraint Resources


- Stop Hurting Kids, A campaign to end the use of restraint and seclusion in schools. http://www.stophurtingkids.org

- Sugai, George (2011) . Best Evidence Based Practices for Behavioral Supports (What is PBIS?) Video Presentation for the UConn Center for Excellence in Developmental Disabilities (UCEDD). https://www.youtube.com/watch?v=I5_ttGPa4nk

- The Technical Assistance Center on Positive Behavioral Interventions and Supports http://www.pbis.org/

- University of Kansas, Center on Developmental Disabilities Positive Behavior Support. http://www2.ku.edu/~kucdd/positive_behavior/


- Violent and Legal: The Shocking Way School Kids are being Pinned Down, Isolated Against Their Will. http://www.propublica.org/article/schools-restraints-seclusions

- Find your state’s Protection and Advocacy Organization http://www.ndrn.org/en/ndrn-member-agencies.html